

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

NADINE BLACK

PLAINTIFF

V.

CIVIL ACTION NO. 1:06cv1104-LTS-RHW

CHARLES HIGLEY AND NATIONWIDE
MUTUAL INSURANCE COMPANY

DEFENDANTS

ORDER

Plaintiff filed [6] [7] motions to strike many of the affirmative defenses raised in the respective Defendants' [3] [4] Answers. Upon due consideration, the Court believes Plaintiff's request for relief is not well taken.

The affirmative defenses contained in the answers are not unlike those found in the vast majority of Hurricane Katrina cases. In the Court's memory, this is the first motion filed by a plaintiff aimed at this target. The Court has ruled on numerous motions to dismiss in which plaintiffs have been allowed to proceed under the long-recognized standard that dismissal is appropriate only if it appears that no set of facts can be proved in support of their allegations that would entitle them to relief.

A defendant is allowed to preserve appropriate defenses in an initial Answer and throughout the course of litigation, including appeal. As with the claims made by a plaintiff, whether they eventually pass muster with any court is another matter. Fed. R. Civ. P. 16's objective is to govern the management of every cause of action; this Court sees no reason to deviate from that process.

Accordingly, **IT IS ORDERED:**

Plaintiff's [6] Motion to Strike certain of Defendant Charles Higley's affirmative defenses is **DENIED**;

Plaintiff's [7] Motion to Strike certain of Defendant Nationwide Mutual Insurance Company's affirmative defenses is **DENIED**.

SO ORDERED this the 4th day of January, 2007.

s/ L. T. Senter, Jr.

L. T. Senter, Jr.
Senior Judge